UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 March 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *46-69* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *46-69* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *9/22/03* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   In view of the appeal brief filed on 3/16/09, PROSECUTION IS HEREBY REOPENED.

A new grounds of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following

two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37

CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an

appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee

can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have

been increased since they were previously paid, then appellant must pay the difference between

the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing

below:

Dang Ton.

Priority

2.   The later-filed application must be an application for a patent for an invention which is

also disclosed in the prior application (the parent or original nonprovisional application or

provisional application). The disclosure of the invention in the parent application and in the later-

filed application must be sufficient to comply with the requirements of the first paragraph of 35

U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32

USPQ2d 1077 (Fed. Cir. 1994). The disclosure of the prior-filed application, Application No.

60/090,028, fails to provide adequate support or enablement in the manner provided by the first

paragraph of 35 U.S.C. 112 for one or more claims of this application. This application is a

division of application no.: 09/335,947 which is now U.S. Patent No.: 6,658,021. Application

no.: 09/335,947 now U.S. Patent No.: 6,658,091 claims priority back to provisional application

no.: 60/090,028 which is dated June 19, 1998. The provisional application no.: 60/090,028

shows data structures for PPP over SONET or packet over SONET, ATM over SONET, and

Line cards but never provides link sending or receiving channelized data tributary streams which

carry both Packet over SONET and ATM over SONET in tributary streams together

simultaneously. According claims 46-69 are not entitled to the benefit of the filing date of the

provisional date which is June 19, 1998. but to the filling date of this application which is

9/22/03. In fact the applicant claims that this application is a division of application 09/335,947

which is U.S. Patent No.: 6,658,021; however, an amendment was made to the specification on

9/22/03. The amendment gives an overview of the invention which was not described in

application 09/335,947 so this application is not a division but in essence a CIP.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

4.   Claims 46, 53, & 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Pierson (U.S. Patent No.: 6,487,198) in view of Noh (U.S. Patent No.: 6,134,238)

Referring to claim 46, Pierson teaches: A device (Figure 6)

a demultiplexer configured to receive a synchronous optical network (SONET) data stream and separate SONET data stream into packet over SONET data stream and asynchronous transfer mode (ATM) data stream (SONET receiver per Fig 6 demultiplexes the synchronous optical data stream (601) into ATM cells which carries both DSOs and HDLC or ATM over SONET and packet over SONET simultaneously per col. 10 lines 33 to col. 12 lines 49. Please note that HDLC is described in detail per col. 12 lines 29 to 49) and a line card coupled to the demultiplexer (port on SONET receiver is interpreted as a line card per Fig 6)

Pierson does not expressly call for: separate the channelized synchronous optical data stream into a constituent tributary data stream and configured to provide the demultiplex with the channelized SONET data stream

Noh teaches: separate the channelized synchronous optical data stream into a constituent tributary data stream (SONET data stream is separated into a tributary which carried the ATM cell per col. 5 lines 65 to col. 6 line 19 and col. 6 line 63 to col. 7 line 5)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the separate the channelized synchronous optical data stream into a constituent tributary data stream and configured to provide the demultiplex with the channelized SONET data stream of Noh to the processing performed by the SONET Receiver of Pierson because by processing ATM cells with in VC the bandwidth utilized in transmitting and receiving the data is more efficiently utilized which will result in an improved performance.

Referring to claim 53, Pierson teaches: one or more devices in a data processing environment (Fig 6 is the device) comprising:

A multiplexer configured to simultaneously received a packet over synchronous optical network (POS) data stream and a asynchronous transfer mode data stream (The SONET transmitter or multiplexer simultaneously receives an ATM cell which has two T1s comprising both DSOs and HDLC or both packet over SONET and ATM over SONET per Fig 6 and per col. 12 lines 50-67. It should be noted that HDLC is in slot 24 which is also sent per col. 12 lines 33 to 44)

And a line card coupled to the multiplexer and configure to receive the single channelized SONET data stream (A port on the SONET receiver is the line card which receives a single channelized SONET data stream per Fig 6 and per col. 12 lines 50-67)

Pierson does not expressly call for: combine the simultaneously received data streams into a single channelized synchronous optical network (SONET) data stream

Noh teaches: combine the simultaneously received data streams into a single channelized synchronous optical network (SONET) data stream (Fig 7A shows three VC3 or tributary streams which are simultaneously concatenated to create a single STM-1 or SONET single data stream per col. 6 lines 20 to 62 and col. 5 lie 54 to col. 6 line 19)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add combine the simultaneously received data streams into a single channelized synchronous optical network (SONET) data stream of Noh to the processing of SONET transmitter of Pierson because by processing ATM cells with in VC the bandwidth utilized in transmitting and receiving the data is more efficiently utilized which will result in an improved performance

Referring to claim 59, Pierson teaches: forwarding node for directing data in a network (Figure 6) the forwarding node including:

A means for creating single synchronous optical network data stream including a packet over synchronous optical data stream and an asynchronous transfer mode (ATM) tributary data stream (SONET transmitter per Fig 6 creates a single SONET data stream including data in atm cell over SONET and HDLC in ATM cell over SONET or packet over SONET pr col. 12 lines 50 to 67 and per col. 12 lines 33 to 44)

Means for transmitting a single SONET data stream (SONET transmitter per Fig 6 and col. 12 lines 50-67)

Pierson does not expressly call for: at least two simultaneous tributary streams in a single SONET data stream

Noh teaches: at least two simultaneous tributary streams in a single SONET data stream (Fig 7A shows three VC3 or tributary streams which are simultaneously concatenated to create a single STM-1 or SONET single data stream per col. 6 lines 20 to 62 and col. 5 lie 54 to col. 6 line 19)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add at least two simultaneous tributary streams of Noh to the processing of SONET transmitter of Pierson because by processing ATM cells with in VC the bandwidth utilized in transmitting and receiving the data is more efficiently utilized which will result in an improved performance. Combining the at least two simultaneous tributary streams in to the SONET transmitter would result in having a means for transmitting at least two simultaneous tributary streams which include both packet over SONET and ATM over SONET and would also result in the transmitting means for transmitting at least two simultaneous tributary SONET data streams in a single SONET data stream.

5.   Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pierson (U.S.

Patent No.: 6,487,198) in view of Noh (U.S. Patent No.: 6,134,238) further in view of Kremer

(U.S. Patent No.: 5,278,824)

Referring to claim 47, the combination of Pierson and Noh teach: the device of claim 46 and receiving channelized SONET data stream

The combination of Pierson and Noh do not expressly call for: a single optical fiber

Kremer teaches: single optical fiber (col. 2 lines 39 to 67)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the single optical fiber of Kremer to the device of the combination of Pierson and Noh in order to receive SONET signal from another node.

6.   Claims 48, 54, & 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Pierson (U.S. Patent No.: 6,487,198) in view of Noh (U.S. Patent No.: 6,134,238) further in view

of Vogel (U.S. Patent No.: 6,075,788)

Referring to claim 48, the combination of Pierson and Noh teach: the device of claim 46 and wherein the tributary data stream additionally include a DS tributary stream (T1 is in the data stream)

The combination of Pierson and Noh does not expressly call for: PPP

Vogel teaches: PPP (PPP frames in ATM cells in SONET per col. 2 lines 2)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the PPP of Vogel to within the ATM cells of Pierson and Noh in order to improve the performance of sending ATM cells

Referring to claim 54, the combination of Pierson and Noh teach: the one or more devices of claim 53 and simultaneously receiving tributary streams including DS tributary data

The combination of Pierson and Noh do not expressly call for: PPP

Vogel teaches: PPP (PPP frames in ATM cells in SONET per col. 2 lines 2)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the PPP of Vogel to within the ATM cells which constitute DS tributary data of Pierson and Noh in order to improve the performance of sending ATM cells

Referring to claim 60, the combination of Pierson and Noh teach: the forwarding node of claim 59 and wherien the at least two simultaneous tributary streams additionally include a DS tributary data steam

The combination of Pierson and Noh do not expressly call for: PPP

Vogel teaches: PPP (PPP frames in ATM cells in SONET per col. 2 lines 2)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the PPP of Vogel to within the ATM cells which constitute DS tributary data of Pierson and Noh in order to improve the performance of sending ATM cells

7.   Claims 49-53, 55-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Pierson (U.S. Patent No.: 6,487,198) in view of Noh (U.S. Patent No.: 6,134,238) further in view

of further in view of Schmidt (U.S. Patent No.: 6,205,154)

Referring to claim 49, the combination of Pierson and Noh teach: the device of claim 46 and SONET data stream

The combination of Pierson and Noh does not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the SONET of the combination of Pierson and Noh in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 50, the combination of Pierson and Noh teach: the device of claim 46 and POS tributary data streams

The combination of Pierson and Noh does not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard of Schmidt to the to the POS tributary data of the combination of Pierson and Noh in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 51, the combination of Pierson and Noh teach: the device of claim 46 and ATM tributary data streams

The combination of Pierson and Noh do not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the to the ATM tributary data stream of the combination of Pierson and Noh in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

In addition Pierson teaches:
Regarding claim 52, wherein the tributary data streams additionally include a composite tributary stream that includes a POS tributary data stream and ATM data stream (The reference teaches ATM cells which had both HDLC and DS) or a composite in the same SONET stream or a composite tributary per col. 10 lines 33 to col. 12 lines 49. & per col. 12 lines 29 to 49

Referring to claim 55, the combination of Pierson and Noh teach: the on e or more devices of claim 53 and channelized SONET data stream

The combination of Pierson and Noh does not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the channelized SONET data stream of the combination of Pierson and Noh in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 56, the combination of Pierson and Noh teach: the one or more devices of claim 53 and POS tributary data streams

The combination of Pierson and Noh does not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard of Schmidt to the to the POS tributary data of the combination of Pierson and Noh in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 57, the combination of Pierson and Noh teach: the one or more devices of claim 53 and ATM tributary data streams

The combination of Pierson and Noh do not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the to the ATM tributary data stream of the combination of Pierson and Noh in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

In addition Pierson teaches:
Regarding claim 58, wherein the simultaneously received tributary data streams additionally include a composite tributary stream that includes a POS tributary data stream and ATM data stream (The reference teaches ATM cells which had both HDLC and DS) or a composite in the same SONET stream or a composite tributary per col. 10 lines 33 to col. 12 lines 49. & per col. 12 lines 29 to 49

Referring to claim 61, the combination of Pierson and Noh teach: the forwarding node of claim 59 and single SONET data stream

The combination of Pierson and Noh does not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the channelized SONET data stream of the combination of Pierson and Noh in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 62, the combination of Pierson and Noh teach: the forwarding node of claim 59 and POS tributary data streams

The combination of Pierson and Noh does not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard of Schmidt to the to the POS tributary data of the combination of Pierson and Noh in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 63, the combination of Pierson and Noh teach: the forwarding node of claim 59 and ATM tributary data streams

The combination of Pierson and Noh do not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the to the ATM tributary data stream of the combination of Pierson and Noh in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

In addition Pierson teaches:
Regarding claim 64, wherein the simultaneously received tributary data streams additionally include a composite tributary stream that includes a POS tributary data stream and ATM data stream (The reference teaches ATM cells which had both HDLC and DS) or a composite in the same SONET stream or a composite tributary per col. 10 lines 33 to col. 12 lines 49. & per col. 12 lines 29 to 49

8.   Claim 66 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pierson (U.S.

Patent No.: 6,487,198) in view of Kremer (U.S. Patent No.: 5,278,824)

Referring to claim 65, Pierson teaches: the method of claim 65 and wherein the single SONET data streams is transmitted

The combination of Pierson does not expressly call for: a single optical fiber

Kremer teaches: single optical fiber (col. 2 lines 39 to 67)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the single optical fiber of Kremer to SONET transmitter of Pierson in order to transmit SONET signal to another node.

9.   Claim 67-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pierson

(U.S. Patent No.: 6,487,198) in view of Schmidt (U.S. Patent No.: 6,205,154)

Referring to claim 67, Pierson teaches: the device of claim 65 and single SONET data stream

Pierson does not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the channelized SONET data stream of Pierson in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 68, Pierson teaches: the device of claim 65 and POS tributary data streams

Pierson does not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard of Schmidt to the to the POS tributary data of Pierson in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 69, Pierson teaches: the device of claim 65 and ATM tributary data streams

Pierson does not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the to the ATM tributary data stream of Pierson in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

In addition Pierson teaches:
Regarding claim 64, wherein the simultaneously received tributary data streams additionally include a composite tributary stream that includes a POS tributary data stream and ATM data stream (The reference teaches ATM cells which had both HDLC and DS) or a composite in the same SONET stream or a composite tributary per col. 10 lines 33 to col. 12 lines 49. & per col. 12 lines 29 to 49

.Claim Rejections - 35 USC § 102

10.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999

(AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002

do not apply when the reference is a U.S. patent resulting directly or indirectly from an

international application filed before November 29, 2000. Therefore, the prior art date of the

reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA

35 U.S.C. 102(e)).

11.   Claim 65 is rejected under 35 U.S.C. 102(E) as being anticipated by Pierson (U.S. Patent

No.: 6,487,198)

Referring to claim 65, Pierson teaches: a method for transmitting information over a fiber optic cable (Fig 6 performs the method) the method comprising:

Constructing a packet over synchronous optical network (POS) data stream (ATM transmitter per Fig 6 takes T1s which have HDLC channels and inserts as part of the T1 into an ATM cell. The SONET transmitter per Fig 6 inserts the HDLC in ATM cell into SONET per col. 12 lines 50-67. Please refer to details associated with HDLC per col. 12 lines 33 to 44)

Constructing an asynchronous transfer mode (ATM) data stream (ATM transmitter per Fig 6 takes T1s which have DSO and inserts into an ATM cell. The SONET transmitter inserts the ATM cell into SONET per col. 12 lines 50-67)

Transmitting the single SONET data stream (The ATM transmitter transmits the single SONET stream per col. 12 lines 50-67)

Double Patenting

12.   A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v.*

Eagle Mfg. Co., 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer <u>cannot</u> overcome a double patenting rejection based upon 35 U.S.C. 101.

13.   The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

14.   Claims 46, 53, 59, & 65 are rejected on the ground of nonstatutory obviousness-type

double patenting as being unpatentable over claims 1, 3, 5, & 8 of U.S. Patent No. 6,658,021 in

view of Jha (U.S. Patent No.: 6,771,663). Although the conflicting claims are not identical they

are not patentably distinct form each other because the instant applicants claim 46 merely

broadens the scope of claims 1, 3, 5, & 8 by merely broadening the scope by eliminating a step

or function.

Referring to claim 46, U.S. Patent 6,658,021 teaches: A device (Forwarding node per claim 1) comprising:

a demultiplexer configured to receive a channelized synchronous optical network (SONET) data stream and separate channelized SONET data stream into constituent tributary data streams (The decapsulation logic delineates or separates into multiple formats (tributaries of constituent tributary data per claim 1 It should be noted that multiple formats within a SONET frame implies that the multiple formats in parallel) including:

packet over SONET tributary data streams (Claim 5 or Claim 8) and an asynchronous transfer mode (ATM) tributary data stream (Claim 3) and

a line card coupled to the demuliplexer and configured to provide the demultiplexer with channelized SONET data (input port for receiving the data the data being formatted as SONET frame and data encapsulated in one of many formats within the SONET frame)

and additionally teaches: the decapsulation logic performing the delineation and decapsulation without executing processor instruction and a programmable pattern storage used by the decapsulating logic for storing information defining what decapsulation is proper for the source

It would have been obvious to one of ordinary skill in the art at the time of the invention to omit the step of the decapsulation logic performing the delineation and decapsulation without executing processor instruction and a programmable pattern storage used by the decapsulating logic for storing information defining what decapsulation is proper for the source because the remaining elements or steps perform the same functions as before.

Claims 1, 3, 5, & 8 do not expressly call for: simultaneously processing tributaries

Jha teaches: simultaneously processing tributaries (virtual tributaries can be used to process data of different kinds per col. 3 line 25-29)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the simultaneously processing of tributaries of Jha to the processing of multiple formats or tributaries of U.S. Patent No.: 6,658,021 in order to improve the utilization of bandwidth which will result in better performance.

Referring to claim 53, U.S. Patent 6,658,021 teaches: one or more devices in a data processing environment (Forwarding node per claim 1) comprising:

A multiplexer configured to receive tributary data streams (The decapsulation logic or multiplexer delineates or separates into multiple formats (tributaries of constituent tributary data per claim 1)

Packet over synchronous optical network (POS) tributary data stream (Claim 5 or Claim 8)

An asynchronous transfer mode (ATM) tributary data stream (Claim 3)

The multiplexer being further configured to combine the tributary data streams in to a single channelized synchronous optical network (SONET) data stream (Decapsulation Logic combines tributary data streams are inherently part of SONET standard per claim 1) and

A line card coupled to the demuliplexer and configured to provide the demultiplexer with channelized SONET data (input port for receiving the data the data being formatted as SONET frame and data encapsulated in one of many formats within the SONET frame)

and additionally teaches: the decapsulation logic performing the delineation and decapsulation without executing processor instruction and a programmable pattern storage used by the decapsulating logic for storing information defining what decapsulation is proper for the source

It would have been obvious to one of ordinary skill in the art at the time of the invention to omit the step of the decapsulation logic performing the delineation and decapsulation without executing processor instruction and a programmable pattern storage used by the decapsulating logic for storing information defining what decapsulation is proper for the source because the remaining elements or steps perform the same functions as before.

Claims 1, 3, 5, & 8 do not expressly call for: simultaneously processing tributaries

Jha teaches: simultaneously processing tributaries (virtual tributaries can be used to process data of different kinds per col. 3 line 25-29)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the simultaneously processing of tributaries of Jha to the processing of multiple formats or tributaries of U.S. Patent No.: 6,658,021 in order to improve the utilization of bandwidth which will result in better performance.

Referring to claim 59, U.S. Patent 6,658,021 teaches: a forwarding node for directing data in a network (Forwarding node per claim 1) the forwarding node including:

Means for creating synchronous optical network (SONET) data stream including packet over synchronous optical network (POS) stream and an asynchronous transfer mode (ATM) data stream (decapsulation logic per claim 3 performs the inverse process of creating either an ATM whereas IP packet or packet over SONET is performed per claim 5)

Means for transmitting a single SONET data stream (Input port per claim 1 performs the inverse)

and additionally teaches: the decapsulation logic performing the delineation and decapsulation without executing processor instruction and a programmable pattern storage used by the decapsulating logic for storing information defining what decapsulation is proper for the source

It would have been obvious to one of ordinary skill in the art at the time of the invention to omit the step of the decapsulation logic performing the delineation and decapsulation without executing processor instruction and a programmable pattern storage used by the decapsulating logic for storing information defining what decapsulation is proper for the source because the remaining elements or steps perform the same functions as before.

Claims 1, 3, 5, & 8 do not expressly call for: simultaneously processing tributaries

Jha teaches: simultaneously processing tributaries (virtual tributaries can be used to process data of different kinds per col. 3 line 25-29)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the simultaneously processing of tributaries of Jha to the processing of multiple formats or tributaries of U.S. Patent No.: 6,658,021 in order to improve the utilization of bandwidth which will result in better performance.

Referring to Claim 65, U.S. Patent 6,658,021 teaches: method for transmitting information over a fiber optic cable (Forwarding node performs the method) the method comprising:

Constructing a packet over synchronous optical network data stream (decapsulation logic per claim 5 performs the inverse)

Constructing an asynchronous transfer mode (ATM) data stream (decapsulation logic per claim 3 performs the inverse)

Transmitting a single SONET data stream (Input port per claim 1 performs the inverse)

and additionally teaches: the decapsulation logic performing the delineation and decapsulation without executing processor instruction and a programmable pattern storage used by the decapsulating logic for storing information defining what decapsulation is proper for the source

It would have been obvious to one of ordinary skill in the art at the time of the invention to omit the step of the decapsulation logic performing the delineation and decapsulation without executing processor instruction and a programmable pattern storage used by the decapsulating logic for storing information defining what decapsulation is proper for the source because the remaining elements or steps perform the same functions as before.

Claims 1, 3, 5, & 8 do not expressly call for: combining streams into a single channelized asynchronous optical network data stream

Jha teaches: combining streams into a single channelized asynchronous optical network data stream (virtual tributaries can be used to process data of different kinds when combined into a single data stream per col. 3 line 25-29)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add combining streams into a single channelized asynchronous optical network data stream in virtual tributaries of Jha in place sending a single type of data in a SONET frame of the of U.S. Patent No.: 6,658,021 in order to improve the utilization of bandwidth which will result in better performance.

15.   Claim 47 is rejected on the ground of nonstatutory obviousness-type double patenting as

being unpatentable over claims 1, 3, 5, & 8 of U.S. Patent No. 6,658,021 in view of in view of

Jha (U.S. Patent No.: 6,771,663) further in view of Kremer (U.S. Patent No.: 5,287,824)

Referring to claim 47, the combination claims 1, 3, 5, & 8 of U.S. Patent No. 6,658,021 & Jha teach: the device of claim 46 and receiving channelized SONET data stream

The combination of claims 1, 3, 5, & 8 of U.S. Patent No. 6,658,021 & Jha do not expressly call for: a single optical fiber

Kremer teaches: single optical fiber (col. 2 lines 39 to 67)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the single optical fiber of Kremer to the device of the combination of combination claims 1, 3, 5, & 8 of U.S. Patent No. 6,658,021 & Jha in order to receive SONET signal from another node.

16.   Claims 48-51 are rejected on the ground of nonstatutory obviousness-type double

patenting as being unpatentable over claims 1, 3, 5, & 8 of U.S. Patent No. 6,658,021 in view of

in view of in view of Jha (U.S. Patent No.: 6,771,663) further in view of Schmidt (U.S. Patent

No.: 6,205,154)

Referring to claim 48, the combination U.S. Patent No.: 6,658,021 and Jha teach: the device of claim 46 and U.S. Patent No.: 6,658,021 teaches: wherein the tributary data steam includes a point to point protocol (claim 8)

The combination of U.S. Patent No.: 6,658,021and Jha do not expressly call for: DS tributary data

Schmidt teaches: DS tributary data (VT or T1 tributary or DS-1 tributary per col. 3 lines 33 to 67).

It would have been obvious to add the DS tributary of the Schmidt to the PPP packet to the SONET of the combination of U.S. Patent No.: 6,658,021 and Jha in order to be standards compliant and build a system which is interoperable with legacy SONET systems.

Referring to claim 49, the combination of U.S. Patent No.: 6,658,021 and Jha teach: the device of claim 46 and channelized SONET data streams

The combination of U.S. Patent No.: 6,658,021 and Jha not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the SONET of the combination of U.S. Patent No.: 6,658,021 and Jha in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 50, the combination of U.S. Patent No.: 6,658,021 and Jha teach: the device of claim 46 and POS tributary data streams (claim 5)

The combination of U.S. Patent No..: 6,658,021and Jha do not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the to the POS tributary data of the combination of U.S. Patent No.: 6,658,021 and Jha in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 51, the combination of U.S. Patent No.: 6,658,021 and Jha teach: the device of claim 46 and ATM tributary data streams (claim 3)

The combination of U.S. Patent No.: 6,658,021 and Jha do not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the
to the ATM tributary data of the combination of U.S. Patent No.: 6,658,021 and Jha in order to
be standards compliant and build a system which is inoperable with legacy SONET systems.

17.   Claim 52 is rejected on the ground of nonstatutory obviousness-type double patenting as

being unpatentable over claims 1, 3, 5, & 8 of U.S. Patent No. 6,658,021 in view of in view of in

view of Jha (U.S. Patent No.: 6,771,663) further in view of Pierson (U.S. Patent No.: 6,487,198)

Referring to claim 52, the combination of U.S. Patent No.: 6,658,021 and Jha teach: the device of
claim 46 and POS and ATM data

The combination of U.S. Patent No.: 6,658,021 and Jha do not expressly call for: composite
tributary steams that includes a POS tributary and data stream and ATM tributary data

Pierson teaches: composite tributary streams (Both DSOs and HDLC or ATM over SONET and
packet over SONET are inserted into a composite tributary stream per 10 lines 33 to col. 12 lines
49)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add
the composite tributary stream of Pierson to the tributary streams of the combination of U.S.
Patent No.: 6,658,021 and Jha in order to more efficiently utilize bandwidth which will result in
a performance improvement.

18.   Claims 54-57 are rejected on the ground of nonstatutory obviousness-type double

patenting as being unpatentable over claims 1, 3, 5, & 8 of U.S. Patent No. 6,658,021 in view of

in view of in view of Jha (U.S. Patent No.: 6,771,663) further in view of Schmidt (U.S. Patent

No.: 6,205,15)

Referring to claim 54, the combination of U.S. Patent No.: 6,658,021 and Jha teach: the one or
more devices of claim 53 and wherein the simultaneously received tributary data steam includes
a point to point protocol (claim 8)

The combination of U.S. Patent No.: 6,658,021 and Jha do not expressly call for: DS tributary
data

Schmidt teaches: DS tributary data (VT or T1 tributary or DS-1 tributary per col. 3 lines 33 to 67).

It would have been obvious to add the DS tributary of the Schmidt to the PPP packet of the combination of U.S. Patent No.: 6,658,021and Jha in order to be standards compliant and build a system which is interoperable with legacy SONET systems.

Referring to claim 55, the combination of U.S. Patent No.: 6,658,021 and Jha teach: the one or more devices of claim 53 and channelized SONET data streams

The combination of U.S. Patent No.: 6,658,021 and Jha not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the SONET of U.S. Patent No.: 6,658,021and Jha in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 56, the combination of U.S. Patent No.: 6,658,021 and Jha teach: the one or more devices of claim 53 and Vogel teaches: the POS tributary data streams (claim 5)

The combination of U.S. Patent No.: 6,658,021 and Jha not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the to the POS tributary data of U.S. Patent No.: 6,658,021 and Jha in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 57, the combination of U.S. Patent No.: 6,658,021 and Jha teach: the one or more devices of claim 53 and ATM tributary data streams (claim 3)

U.S. Patent No.: 6,658,021 and Jha do not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the to the ATM tributary data of the combination of U.S. Patent No.: 6,658,021, Master, Vogel, and

Schmidt in order to be standards compliant and build a system which is inoperable with legacy
SONET systems.

19.   Claim 58 is rejected on the ground of nonstatutory obviousness-type double patenting as

being unpatentable over claims 1, 3, 5, & 8 of U.S. Patent No. 6,658,021 in view of in view of in

view of Jha (U.S. Patent No.: 6,771,663) further in view of Pierson (U.S. Patent No.: 6,487,198)

Referring to claim 58, the combination of U.S. Patent No.: 6,658,021 and Jha teach: the device of
claim 53 and POS and ATM data

The combination of U.S. Patent No.: 6,658,021 and Jha do not expressly call for: composite
tributary steams that includes a POS tributary and data stream and ATM tributary data

Pierson teaches: composite tributary streams (Both DSOs and HDLC or ATM over SONET and
packet over SONET are inserted into a composite tributary stream per 10 lines 33 to col. 12 lines
49)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add
the composite tributary stream of Pierson to the tributary streams of the combination of U.S.
Patent No.: 6,658,021 and Jha in order to more efficiently utilize bandwidth which will result in
a performance improvement.

20.   Claims 60-63 are rejected on the ground of nonstatutory obviousness-type double

patenting as being unpatentable over claims 1, 3, 5, & 8 of U.S. Patent No. 6,658,021 in view of

in view of in view of Jha (U.S. Patent No.: 6,771,663) further in view of Schmidt (U.S. Patent

No.: 6,205,15)

Referring to claim 60, the combination of U.S. Patent 6,658,021and Jha teaches: the forwarding
node of claim 59 and wherein the at lest two simultaneous tributary data steam includes a point
to point protocol (claim 8)

U.S. Patent 6,658,021 and Jha do not expressly call for: DS tributary data

Schmidt teaches: DS tributary data (VT or T1 tributary or DS-1 tributary per col. 3 lines 33 to
67).

It would have been obvious to add the DS tributary of the Schmidt to the PPP packet of the combination of U.S. Patent 6,658,021 and Jha in order to be standards compliant and build a system which is interoperable with legacy SONET systems.

Referring to claim 61, the combination of U.S. Patent 6,658,021and Jha teach: the forwarding node of claim 59 and channelized SONET data streams

The combination of U.S. Patent 6,658,021and Jha do not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the optical carry rate of the SONET standard Schmidt to the SONET of the combination of U.S. Patent 6,658,021and Jha in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 62, the combination of U.S. Patent 6,658,021 and Jha teaches: the forwarding node of claim 59 and the POS tributary data streams (claim3)

The combination of U.S. Patent 6,658,021and Jha do not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the optical carry rate of the SONET standard Schmidt to the to the POS tributary data of the combination of U.S. Patent 6,658,021and Jha in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 63, the combination of U.S. Patent 6,658,021 and Jha teach: the forwarding node of claim 59 and ATM tributary data streams (claim 3)

The combination of U.S. Patent 6,658,021 and Jha not expressly call for: optical carry rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to 67

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the optical carry rate of the SONET standard Schmidt to the to the ATM tributary data of the

combination of U.S. Patent 6,658,021and Jha in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

21.   Claim 64 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 3, 5, & 8 of U.S. Patent No. 6,658,021 in view of in view of in view of Jha (U.S. Patent No.: 6,771,663) further in view of Pierson (U.S. Patent No.: 6,487,198)

Referring to claim 64, the combination of U.S. Patent No.: 6,658,021 and Jha teach: the device of claim 59 and POS and ATM data

The combination of U.S. Patent No.: 6,658,021 and Jha do not expressly call for: composite tributary steams that includes a POS tributary and ATM tributary data

Pierson teaches: composite tributary streams (Both DSOs and HDLC or ATM over SONET and packet over SONET are inserted into a composite tributary stream per 10 lines 33 to col. 12 lines 49)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the composite tributary stream of Pierson to the tributary streams of the combination of U.S. Patent No.: 6,658,021 and Jha in order to more efficiently utilize bandwidth which will result in a performance improvement.

22.   Claim 66 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 3, 5, & 8 of U.S. Patent No. 6,658,021 in view of in view of Jha (U.S. Patent No.: 6,771,663) further in view of Kremer (U.S. Patent No.: 5,287,824)

Referring to claim 66, the combination claims 1, 3, 5, & 8 of U.S. Patent No. 6,658,021 & Jha teach: the method of claim 65 and receiving channelized SONET data stream

The combination of claims 1, 3, 5, & 8 of U.S. Patent No. 6,658,021 & Jha do not expressly call for: a single optical fiber

Kremer teaches: single optical fiber (col. 2 lines 39 to 67)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the single optical fiber of Kremer to the device of the combination of combination claims 1, 3, 5, & 8 of U.S. Patent No. 6,658,021 & Jha in order to transmit a SONET signal to another node.

23.   Claims 67-69 are rejected on the ground of nonstatutory obviousness-type double

patenting as being unpatentable over claims 1, 3, 5, & 8 of U.S. Patent No. 6,658,021 in view of

in view of in view of Jha (U.S. Patent No.: 6,771,663) further in view of Schmidt (U.S. Patent

No.: 6,205,154)

Referring to claim 67, the combination of U.S. Patent No.: 6,658,021 and Jha teach: the device of
claim 65 and channelized SONET data streams

The combination of U.S. Patent No.: 6,658,021 and Jha not expressly call for: optical carry rate
in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to
67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the
SONET of the combination of U.S. Patent No.: 6,658,021 and Jha in order to be standards
compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 68, the combination of U.S. Patent No.: 6,658,021 and Jha teach: the device of
claim 65 and POS tributary data streams (claim 5)

The combination of U.S. Patent No..: 6,658,021and Jha do not expressly call for: optical carry
rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to
67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the
to the POS tributary data of the combination of U.S. Patent No.: 6,658,021 and Jha in order to be
standards compliant and build a system which is inoperable with legacy SONET systems.

Referring to claim 69, the combination of U.S. Patent No.: 6,658,021 and Jha teach: the device of
claim 65 and ATM tributary data streams (claim 3)

The combination of U.S. Patent No.: 6,658,021 and Jha do not expressly call for: optical carry
rate in accordance with the SONET standard.

Schmidt teaches: optical carry rate in accordance with the SONET standard per col. 3 lines 34 to
67

It would have been obvious to add the optical carry rate of the SONET standard Schmidt to the to the ATM tributary data of the combination of U.S. Patent No.: 6,658,021 and Jha in order to be standards compliant and build a system which is inoperable with legacy SONET systems.

Claim Objections

24.   Claims 67-69 are objected to because of the following informalities: The examiner objects to the usage of "The device of claim" in the preamble because applicant is referring back to an independent claim that is for a method. The examiner recommends that the applicant amend the claim to consistent with the independent claim type. Appropriate correction is required.

Specification

25.   The disclosure is objected to because of the following informalities: The examiner objects to the section of the specification in which the status of related applications are described because the applicant has stated that this application is a division of Patent 6,658,021 where the applicant has clearly amended the specification to add new matter which was previously not described in the parent application making this clearly a Continuation in part. The specification is further objected to because the applicant has claimed priority to the provisional specification again where the applicant has clearly added new matter and therefore is not entitled to the original priority date.   Appropriate correction is required.

Drawings

26.   The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Applicant's best drawing relative to this application shows a SONET MUX/DEMUX and Line card in Fig 4; however, none of the

applicant drawings show the following: "channelized SONET data stream and tributary data streams simultaneously including packet over SONET tributary data stream and ATM tributary data" as specified in claim 46; "simultaneously receiving tributary data streams including packer over SONET and ATM tributary streams" and "combining the simultaneously received tributary data streams into a single SONET data stream" as specified in claim 53; "means for creating at least two simultaneous tributary synchronous optical network data streams including: packet over SONET tributary data stream an ATM tributary data stream" as specified in claim 59; and "constructing of packer over SONET' constructing of ATM data stream, and combining the packet over SONET and ATM data stream into a single channelized SONET data stream" as specified in claim 65. Therefore, the claims 46, 53, 59, & 65 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

be notified and informed of any required corrective action in the next Office action. The

objection to the drawings will not be held in abeyance.

Drawings

27.   The applicant drawing are hand-drawn drawings which are objected to because they are

not of sufficient quality to be in a published patent. The examiner recommends that the drawing

be redone by a draftsman and resubmitted in order to make the quality of drawings of sufficient

quality to be in a published patent. Appropriate action is required.

Response to Arguments

28.   Applicant's arguments with respect to claims 46-69 have been considered but are moot in

view of the new ground(s) of rejection.

In order to be complete in the response relative to the applicant appeal the examiner has provided
the following responses:

In the appeal the applicant failed to argue the provisional specification enable all of the claim
limitations of the claim limitations; therefore, applicant is not entitled to the priority date
associated with the provisional specification.

It should also be noted that applicant added new specification information that related to the
claimed invention on the filing date so the specification is different from the parent case and
therefore this application is not a division but is in reality a continuation in part.

In response the applicant arguments the examiner has created a new ground of rejection based
upon new prior art references.

In response to the applicant arguments relative to the obvious double patenting the examiner has
rewritten the rejection in response to the applicant arguments in the appeal case.

Conclusion

29.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to ROBERT W. WILSON whose telephone number is (571)272-

3075. The examiner can normally be reached on M-F (8:00-4:30).

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Dang Ton can be reached on 571/272-3171. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

        Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

                                              /Robert W Wilson/
                                              Primary Examiner, Art Unit 2419

RWW
6/1/09

/DANG T TON/
Supervisory Patent Examiner, Art Unit 2419/D. T. T./
Supervisory Patent Examiner, Art Unit 2419